IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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KAUSHIKUMAR NANKUBHAI HUDAD - Appellant(s)

Versus

MITABEN KAUSHIKKUMAR HUDAD - Defendant(s)

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Appearance :

MR YOGESH S LAKHANI for Petitioner No(s).: 1.

MR HARSHIT S TOLIA for Respondent No(s).: 1.

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CORAM :HON'BLE MR.JUSTICE A.M.KAPADIA

Date : 14/07/2005

ORAL JUDGMENT

1.Instant First Appeal under Section 47 of the Guardians and Wards Act 1890 ('the Act' for short) is filed against the order dated 14.12.2004 rendered in Civil Misc. Civil Application No. 34 of 2000 by the learned Joint District Judge and 9th Fask Track Judge, Rajkot, by which the application filed by the respondent – wife against the appellant – husband under Section 25 of the Act to take the custody of minor child Ravina came to be granted and the appellant was directed to hand over the custody of minor Ravina to the respondent within a period of 30 days from the date of the order.

2.This Court has heard Mr. Y.S.Lakhani, learned advocate of the appellant and Mr. Harshit S. Tolia, learned advocate of the respondent.

3.At the time admission hearing of this appeal this Court tried to explore the possibility of settlement between the parties with the help of Ms. Hansa Punani, who at the relevant time appeared as learned AGP before this Court. This Court with her help tried to ascertain the wish and willingness of minor child Ravina as to with whom she wants to reside. Ms. Hansa Punani, learned AGP ascertained the wish and willingness of minor child Ravina and thereafter she informed the Court that at present the custody of the minor child Ravina is with the appellant – husband and she wants to reside with him. Thereafter also this Court tried to explore the possibility of reunion of both the spouses with the help of the learned advocates appearing for the parties and ultimately on 3.5.2005 the appellant-husband shown his willingness to take respondent- wife and, the respondent-wife also shown her willingness to accompany her. Thereafter also on several adjournments both of them have appeared before the Court and expressed that now they are living together as husband and wife with their minor child Ravina and now there is no dispute between both of them.

4.Lastly, they appeared before this Court on 30.6.2005 and they urged that since they are residing together as husband and wife with minor child Ravina, therefore, there is no question of adjudicating this appeal which is filed for the custody of the minor child Ravina as the minor child is now residing with both of them.

5.In above view of the matter, the learned advocates appearing for the parties urged to pass appropriate orders in this proceedings. They also submitted compromise purshis in this regard which bears the signatures of both the parties as well as their respective advocates.

6.In aforesaid view of the matter, the present Appeal is disposed of in terms of the settlement arrived at between the parties. No order as to costs.

(A.M.Kapadia,J)

Jayanti*